



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
NEW YORK REGIONAL OFFICE
BROOKFIELD PLACE, 200 VESEY STREET, SUITE 400
NEW YORK, NY 10281-1022

DIVISION OF ENFORCEMENT

PAUL G. GIZZI
SENIOR TRIAL COUNSEL
(212) 336-0077
gizzip@sec.gov

April 27, 2020

Via ECF

Hon. Paul G. Gardephe
United States District Judge
Southern District of New York
40 Foley Square, Room 2204
New York, NY 10007

Re: *SEC v. Ciapala*, 20-cv-8 (PGG) (S.D.N.Y.)

Dear Judge Gardephe:

Plaintiff Securities and Exchange Commission (“Commission”) respectfully writes to seek a 45-day adjournment of the initial pretrial conference currently scheduled for May 7, 2020. The Commission has made separate requests under the Hague Convention to serve the individual defendant in this action, Kenneth Ciapala (“Ciapala”), in the United Kingdom, and to serve the entity defendant, Blacklight SA (“Blacklight”), in Switzerland. To date, service has not been effected upon either defendant.

As background, the Commission filed this action on January 2, 2020. The same day, the United States Attorney’s Office for the Southern District of New York (“USAO”) unsealed criminal charges against Ciapala and Blacklight, and also against Ulrik Debo (“Debo”), in *United States v. Ciapala*, 19-cr-874 (GBD) (S.D.N.Y.).¹ The Commission understands that Ciapala and Debo were arrested in the U.K. and are currently being detained in the HMP Wandsworth facility in London. The Commission further understands that the USAO is seeking their extradition to the United States to face the criminal charges. At present, no counsel has entered an appearance in the criminal case or in this Commission action on behalf of Ciapala or Blacklight.

Meanwhile, on January 17, 2020, the Commission sent a service request under the Hague Service Convention (the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters), with the Court’s Notice of Pretrial Conference (Dkt. No. 11), to the Royal Court of Justice in London for delivery to Ciapala. The Hague service request was returned, however, because it did not include Ciapala’s U.K. prisoner number, which was not publicly available. The Commission subsequently obtained the prisoner number through the U.K. Financial Conduct Authority, the Commission’s counterpart in the U.K. On March 4, the Commission sent another Hague Service Convention request to the Royal Court, and the request appears to have been delivered on March 6. The Commission understands

¹ The same day, the Commission also filed a separate action against Ciapala and Blacklight, *SEC v. Bajic*, 20-cv-7 (LGS) (S.D.N.Y.), and an action against Debo, *SEC v. Debo*, 20-cv-6 (PKC) (S.D.N.Y.).

Hon. Paul G. Gardephe

April 27, 2020

Page | 2

that it typically takes approximately two months for service to be completed in the U.K. under the Hague Service Convention.

On January 24, 2020, the Commission sent a service request under the Hague Service Convention, with the Court's Notice of Pretrial Conference (Dkt. No. 11), to the Tribunal civil - Tribunal de premiere instance in Geneva, Switzerland for delivery to Blacklight. The Hague service request was returned, however, because the Hague Convention Central Authority in the Canton of Geneva took the position that the Commission was not permitted to utilize the Hague Service Convention for service in its cases as it is a governmental agency and its cases are not "civil" matters as intended by the Convention. The Commission subsequently conferred with the Office of International Affairs, Criminal Division, at the Department of Justice about making a request for assistance with service to the appropriate authorities in Switzerland pursuant to Article 22 of the 1973 U.S.-Swiss Confederation Mutual Legal Assistance Treaty (the "Treaty"). The Commission staff is now in the process of preparing such a request with the Department of Justice. The Commission understands that, once a request is made, it typically takes several months for service to be completed in Switzerland under the Treaty and estimates that, under the current circumstances caused by Covid-19, service in this action may take approximately six months.

The Court's Notice of Pretrial Conference Order scheduled a conference under Federal Rule of Civil Procedure 16 for May 7 at 11:00 a.m., and directed the parties to submit a joint letter seven days before, or by April 30. The Commission does not anticipate that it will have effected service on Ciapala or Blacklight by either date. The Commission therefore respectfully requests that the Court adjourn the conference for 45 days, by which time the Commission hopes that service at least on Ciapala will have been effected. If the Court prefers to go forward with the conference on May 7 as scheduled, the Commission is prepared to submit its own proposed scheduling letter by April 30, and respectfully requests that the conference be held telephonically.

Respectfully submitted,

/s/ Paul G. Gizzi

Paul G. Gizzi
Senior Trial Counsel